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10 UNITED STATES DISTRICT COURT  
11 WESTERN DISTRICT OF WASHINGTON  
12 AT TACOMA

12 STEPHEN KNIGHT LEWIS,

13 Plaintiff,

14 v.

15 CITY OF LAKEWOOD, *et al.*,

16 Defendants.  
17

No. 08-5589FDB/JRC

ORDER ON PENDING MOTIONS

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19 This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned  
20 Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local  
21 Magistrate Judges' Rules MJR 1, MJR 3, and MJR 4.

22 Before the court are plaintiff's motions for appointment of counsel and leave of court to  
23 amend the complaint (Dkt # 16 and 17). The City of Lakewood opposes appointment of counsel,  
24 and opposes in part the amendment of the complaint (Dkt # 19 and 20). Lakewood does not  
25 oppose adding two named police officers, but does oppose adding the Police Chief to this action  
26 (Dkt # 20). The Court has examined the motions and the responses.

ORDER - 1

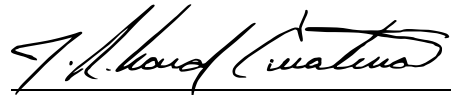
1        Motion to Appoint Counsel. There is no right to have counsel appointed in cases brought  
2 under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(e) (1), can request counsel  
3 to represent a party, the court may do so only in exceptional circumstances. Wilborn v.  
4 Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th  
5 Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional  
6 circumstances requires an evaluation of both the likelihood of success on the merits and the  
7 ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues  
8 involved. Wilborn, 789 F.2d at 1331.

10        Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. See  
11 proposed amended, Complaint (Dkt # 16). The likelihood of success on the merits does not  
12 favor appointment of counsel at this point in time. Accordingly, Plaintiff's Motion to Appoint  
13 Counsel (Dkt. # 17) is **DENIED**.

15        Motion to Amend the Complaint. Plaintiff names the two police officers he claims acted  
16 improperly when he was arrested (Dkt. # 16, proposed complaint). Lakewood does not oppose  
17 adding these defendants to the action (Dkt. # 20). Plaintiff also names the City of Lakewood  
18 Chief of Police, but provides no facts showing the Police Chief was involved in the incidents that  
19 give rise to this action. Lakewood opposes the addition of the Police Chief (Dkt. # 20). The  
20 objection is well taken. The motion to amend the complaint is GRANTED IN PART AND  
21 DENIED IN PART. Plaintiff may submit a new amended complaint naming additional  
22 defendants Dave Butts and Nick McClellan, but shall not name the Lakewood City Chief of  
23 Police. Plaintiff will have until May 29, 2009, to provide service documents for Officers Butts  
24 and McClellan.

1 The clerk of court is directed to send copies of this order to Plaintiff. The clerk's office  
2 should remove Dkt. # 16 and 17 from the Court's calendar. Further, the clerk's office is directed  
3 to note May 29, 2009, as the due date for service documents.

4 DATED this 28<sup>th</sup> day of April, 2009.

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7 J. Richard Creatura  
8 United States Magistrate Judge  
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